

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:02CR02-1-MU

UNITED STATES OF AMERICA,)
Plaintiff,)
)
v.)
)
MARVIN MARCO GRAHAM,)
Defendant.)
_____)

O R D E R

THIS MATTER is before the Court on the defendant's request to proceed in forma pauperis with the appeal of his criminal case, filed September 19, 2005.

According to the record of this matter, on April 24, 2002, the defendant pled guilty to conspiracy to possess with intent to distribute certain controlled substances; possession of a firearm by a convicted felon; and money laundering. On April 27, 2004, the Court held a Factual Basis & Sentencing Hearing, during which it granted the government's Motion for a Downward Departure. At the conclusion of that Hearing, the Court sentenced the defendant to a total of 168 months imprisonment.

Subsequently, the defendant filed a Motion to Vacate, essentially asking to have his appellate rights reinstated. On July 29, 2005, the Court entered an Order granting the defendant's Motion, and reinstating his right to directly appeal his convic-

tions and sentences nunc pro tunc. Now, by the instant request, the defendant is seeking permission to proceed in forma pauperis with that appeal.

In support of his request, the defendant has submitted a Financial Affidavit which reflects that as of September 2, 2005, he had only \$.30 in his inmate trust account; that he recently has not made any withdrawals from that account; and that over the six months preceding his request, he had made less than \$21.00 worth of purchases.

Based upon the foregoing, this Court finds that the defendant cannot afford to pay the cost of prosecuting his appeal. Accordingly, the defendant's IFP request shall be granted.

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. That the defendant's IFP request is **GRANTED**; and
2. That the Clerk shall send copies of this Order to the defendant and to the Clerk of the Fourth Circuit Court of Appeals.

SO ORDERED.

Signed: September 26, 2005

A handwritten signature in cursive script, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen
Chief United States District Judge

